

U.S. PTO Customer No. 25280

Case# 5668

REMARKS35 USC Section 103 Rejections:

Claims 7, 24-25 and 29-34 were rejected under 35 USC 103(a) as being unpatentable over Kimbrell Jr. et al. (US Patent Application Publication No. 20040137814A1).

Claims 7, 24-25 and 29-34 were rejected under 35 USC 103(a) as being unpatentable over Kimbrell Jr. et al. (US Patent No. 6,899, 923).

Claims 7, 24-25 and 29-34 were rejected under 35 USC 103(a) as being unpatentable over Kimbrell Jr. et al. (US Patent Application Publication No. 20040138083A1).

Citing 35 USC Section 103(c), Applicant respectfully submits that the Kimbrell references are improperly used in forming the basis for these rejections. 35 USC Section 103(c) states:

"Patentability shall not be negated by the manner in which the invention was made. Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

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Applicant respectfully submits that all of the Kimbrell references and the instant patent application are commonly assigned to Milliken & Company. Additionally, Applicant contends that the Kimbrell references qualify as prior art only under 35 USC Section 102(e).

Accordingly, Applicant respectfully submits that the rejections over the Kimbrell references are improper and as such, Applicant respectfully requests that the rejections be withdrawn.

Double Patenting Rejections:

Claims 7, 24-25 and 29-34 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 11-15 of copending Application No. 10/339,971.

Claims 7, 24-25 and 29-34 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-29 of copending Application No. 10/340,300.

Claims 7, 24-25 and 29-34 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-35 of copending Application No. 10/685,318.

Claims 7, 24-25 and 29-34 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of USPN 6,899,923.

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Applicant respectfully disagrees with the basis of these double patenting rejections. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim (MPEP § 2131). Additionally, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art (MPEP § 2143.03).

Applicant respectfully submits that each of the cited references fails to teach each and every limitation of Applicant's claimed invention as required by the MPEP. More specifically, each reference fails to teach a hydrophilic polyurethane resin as taught and claimed by Applicant (see component "b" recited in independent claim 7). Since each reference fails to teach a hydrophilic polyurethane resin as recited by Applicant independent claim 7, and since all other rejected claims depend either directly or indirectly from claim 7, Applicant respectfully submits that these double patenting rejections are improper. Thus, reconsideration and withdrawal of these rejections is earnestly requested.

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Conclusion:

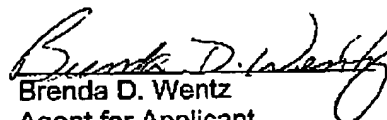
For the reasons set forth above, it is respectfully submitted that claims 7, 24 – 25, and 29 – 34 stand in condition for allowance. Should any issues remain after consideration of these Remarks, the Examiner is invited and encouraged to telephone the undersigned in the hope that any such issue may be promptly and satisfactorily resolved.

In the event that there are additional fees associated with the submission of these papers (including extension of time fees), authorization is hereby provided to withdraw such fees from Deposit Account No. 04-0500.

Respectfully requested,

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